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APR 19 2005

FAX COVER SHEET

Page 1 of 3

To: U.S. Patent Office - Attn: Alicia Baturay
Group: 2155
From: Jerry A. Miller
Re: Serial Number: 09/838,983
Filing Date: 4/20/2001
Dated: April 19, 2005

Honorable Commissioner:

Following please find:

- Request to Remove Finality of Rejection
- Request for Interview

No fee is believed to be required, but if fees are required, you are authorized to charge such fees to deposit account 50-1267.

[X] I hereby certify that this communication is being transmitted by fax to the US Patent and Trademark Office on the date indicated above.

Respectfully submitted,

Jerry Miller
Registration No. 30,779

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PAGE 1/3 * RCVD AT 4/19/2005 10:27:18 AM [Eastern Daylight Time] * SVR:USPTO-EFAX-1/0 * DNIS:8729306 * CSID:919 816 9982 * DURATION (mm-ss):01-18

PTOL-413A (09-04)
Approved for use through 07/31/2006. OMB 0851-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 09/838,923 First Named Applicant: DAVID HUGHES
Examiner: BATURAY, A. Art Unit: 2155 Status of Application: AFTER FINAL*

Tentative Participants:

(1) ALICIA BATURAY (2) ALAN HOEHN
(3) Jerry Miller (4) _____

* NOTE ATTACHED REQUEST
TO REMOVE FINALITY

Proposed Date of Interview: MAY 4, 2005 Proposed Time: 11:00 (AM/PM)

Type of Interview Requested:

(1) ☐ Telephonic (2) ☒ Personal (3) ☐ Video Conference
Otherwise, I request
A Telephone CONF.
AT A DATE T.B.D.)

Exhibit To Be Shown or Demonstrated: ☐ YES

☒ NO

If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rej-103</u>	<u>ALL</u>	<u>ALL</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Continuation Sheet Attached					

Brief Description of Arguments to be Presented:

MS REFERENCE USES MULTIPLE SAYS
- OTHER REFERENCES FAIL TO DISCLOSE DEFAULT AUDIO
SAMPLE

An interview was conducted on the above-identified application on _____

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Jerry A. Miller
Applicant/Applicant's Representative Signature

Examiner/SPE Signature

Jerry A. Miller
Typed/Printed Name of Applicant or Representative

30779
Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Patent Application of:
Inventor(s): Hughes, et al.
Filed: 4/20/2001
Serial No.: 09/838,983
Art Unit: 2155
Examiner: Baturay, Alicia
Docket Number: SNY-P4339
Title: Super Distribution of Music Samples Using Email
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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APR 19 2005

**REQUEST FOR REMOVAL OF FINALITY OF THE
OFFICE ACTION OF APRIL 4, 2005**

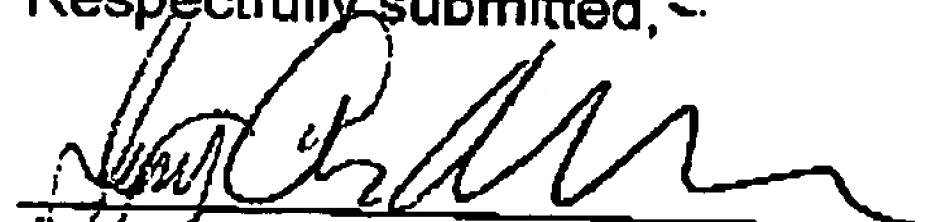
Honorable Commissioner:

The undersigned respectfully requests that the finality of the rejection of April 4, 2005 be removed. The Office Action states in paragraphs 7 and 27 that "Applicant's amendment necessitated the new ground(s) of rejection". However, it is noted that at least independent claim 31 was not amended in any manner that would necessitate a new rejection, since this claim was only amended to correct a minor grammatical error in a manner suggested by the Examiner. Moreover, independent claim 47 was not amended at all. However, both claims 31 and 47 were rejected on new grounds with newly cited art.

Accordingly, since Applicant's amendment did not in fact necessitate a new grounds of rejection, it is submitted that the finality of the present Office Action is premature.

I hereby certify that this document is being transmitted to the United States Patent and Trademark Office via facsimile on the date below.

Respectfully submitted, ~



Jerry A. Miller
Registration No. 30,779

Dated: 4/19/05